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25 UNITED STATES DISTRICT COURT  
26 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
27 SAN FRANCISCO DIVISION

28 AMERICAN FEDERATION OF  
GOVERNMENT EMPLOYEES, AFL-CIO,  
et al.,

Plaintiffs,

v.

DONALD J. TRUMP, in his official capacity  
as President of the United States, et al.,

Defendants.

Case No. 3:25-cv-03698-SI

**PLAINTIFFS' REQUEST FOR STATUS  
CONFERENCE AND/OR CLARIFICATION  
OF ORDERS RE: DISCOVERY**

1 Plaintiffs submit this request for a status conference, or in the alternative, for clarification  
 2 from this Court regarding the production deadline for Defendants' documents responsive to  
 3 Plaintiffs' Requests for Production of Documents. Plaintiffs sought Defendants' position with  
 4 respect to this request for a status conference and/or clarification and have not yet received a  
 5 response.

6 Plaintiffs understood this Court's prior orders (ECF 228, 242) to require Defendants to  
 7 produce responsive documents and a privilege log by yesterday, August 11, 2025. As set forth in  
 8 the "Notice" filed by Defendants with the Court yesterday (ECF 244), Defendants have chosen to  
 9 interpret this Court's orders differently, requiring only written responses and objections, and have  
 10 commenced, by their own election, a "rolling" production with no firm deadline for production,  
 11 and to produce a privilege log in 30 days from yesterday.

12 On July 25, 2025, this Court resolved the parties' competing motions with respect to  
 13 Plaintiffs' first set of document requests: denying Plaintiffs' request to expedite the response, and  
 14 denying Defendants' request to quash and/or for a protective order relieving them of the obligation  
 15 to respond and produce documents. ECF 228. That order stated:

16 Defendants **shall produce** the requested discovery on the ordinary timetable, i.e., by  
 17 August 11, 2025. To the extent defendants withhold relevant documents that they assert are  
 18 privileged, defendants shall provide plaintiffs with a privilege log for any specific  
 19 assertions.

20 ECF 228 at 5 (emphasis added). Subsequently, Defendants failed to comply with the deadline for  
 21 producing and filing the certified Administrative Record, without seeking leave from this Court.  
 22 Accordingly, Plaintiffs moved for an order requiring the production. ECF 234. On August 6,  
 23 2025, this Court denied Plaintiffs' motion without prejudice. ECF 242. This Court explained that  
 24 "much of the information" sought is covered by the pending document requests, and:

25 Defendants' discovery responses on the requests for production of documents are due  
 26 August 11, 2025. *See* Dkt. No. 228 at 2, 5. **The Court expects defendants to comply with**  
 27 **that discovery production date**, and the discovery plaintiffs seek is likely to shed more  
 28 light on the "contours of the precise policy at issue" ...  
 The production of administrative records for these actions may be necessary for the Court's  
 review in the future, but **the discovery presently due August 11** is sufficient to advance  
 this litigation in the meantime.

ECF 242 at 2-3 (emphasis added).

Plaintiffs recognize that in the normal course of discovery, where the parties have not  
 previously sought and obtain orders pertaining to a particular production, Rule 34 permits a party

1 to respond by the 30-day deadline and to “complete[]” their production of responsive documents  
 2 by that response date, or “another reasonable time specified in the response.” Fed. R. Civ. Pro.  
 3 34(b)(2)(B). However, having resolved the parties’ competing positions on the urgency of this  
 4 request and production, Plaintiffs understood this Court’s prior orders to require production by  
 5 August 11, 2025. Defendants’ Notice takes a different position:

6 Defendants will produce those portions of any responsive documents located after a  
 7 reasonable search...

8 Defendants anticipate making an **initial production** of such records today. Defendants have  
 9 not yet completed processing of all responsive and non-privileged records but are working  
 10 diligently to do so as expeditiously as possible, and will make **rolling productions** of  
 responsive records beginning August 11, 2025 (i.e., today). In addition, Defendants intend  
 to produce a privilege log in a format consistent with the Federal Rules of Civil Procedure  
**within 30 days of today.**

11 ECF 244 (emphasis added). Defendants do **not** provide an alternative date by which the  
 12 production will be completed. Defendants argue that this position is consistent with Rule 34 and  
 13 this Court’s July 25 Order, taking the position that Order did not require production by August 11,  
 14 2025:

15 Defendants would disagree with any such reading of the Court’s July 25 order, since it  
 16 denied a motion to quash, and **did not compel production or grant other relief.**  
 17 Defendants could not have sought a stay or appellate relief of the Court’s July 25 Order,  
 since a denial of a motion to quash does not do anything other than decline to relieve  
 Defendants of their obligations to respond to Plaintiffs’ RFPs—an obligation imposed by  
 the Federal Rules of Civil Procedure, not any prior order from this Court.

18 ECF 244 (emphasis added).

19 Defendants’ position, in Plaintiffs’ view, is inconsistent with the language of this Court’s  
 20 prior orders. ECF 228, 242.

21 Plaintiffs also note that despite the representation to *this Court* that “Defendants could not  
 22 have sought a stay or appellate relief of the Court’s July 25 Order,” just one business day prior, On  
 23 Friday, August 8, 2025, they did exactly that, asking the Ninth Circuit:

24 If necessary, this Court may construe this reply as a petition for writ of mandamus or  
 25 prohibition to establish jurisdiction over the district court’s denial of the government’s  
 26 motion to quash. *See, e.g., Miller v. Gammie*, 335 F.3d 889, 895 (9th Cir. 2003) (en banc);  
 27 *In re: GTE Service Corp.*, 762 F.2d 1024, 1026 (D.C. Cir. 1985). Alternatively, if the Court  
 so directs, the government is prepared to file a *pro forma* supplemental petition to avoid any  
 doubt that this court may properly exercise All Writs Act jurisdiction over the denial of the  
 motion to quash.

1 Case No. 25-3293, Dkt. 12-1 at 15-16.<sup>1</sup>

2 Plaintiffs further note that Defendants have been aware of Plaintiffs' request for production  
3 since July 10, 2025, and of this Court's order regarding production since July 25, 2025. At no time  
4 did Defendants raise, prior to the August 11, 2025 production date, their interpretation of the  
5 Court's prior orders or seek to resolve any disputes with Plaintiffs, but rather waited until August  
6 11, 2025 to inform Plaintiffs and the Court they intended only to commence a rolling, open-ended  
7 production. Plaintiffs also note that even if Defendants' response were governed *only* by Rule 34  
8 and not also by pre-existing court orders, announcing an intention to provide a "rolling" open-  
9 ended production does not comply with Rule 34's requirement of providing a reasonable  
10 production date.

11 This Court has previously addressed the circumstances surrounding this discovery (ECF  
12 242) so Plaintiffs will not repeat that background here. For the reasons explained by the Court,  
13 swift production will allow the parties and the Court to move forward expeditiously, in light of  
14 Defendants' ongoing efforts to implement the EO and ARRs at issue in this case. Defendants'  
15 position here also potentially resurrects the issues with respect to the production of the  
16 Administrative Record, which this Court resolved in Defendants' favor based in part on the  
17 expected swift production ( ECF 242).

18 Plaintiffs therefore request the Court either schedule a status conference to discuss and  
19 resolve the parties' respective positions regarding the meaning of this Court's prior orders with  
20 respect to Defendants' production, or provide clarification as to meaning of those orders.

21  
22 Respectfully submitted,

23  
24  
25  
26  
27 <sup>1</sup> Upon review of Defendants Notice to this Court (ECF 244), Plaintiffs met and conferred by email  
28 with Defendants about these conflicting statements, and requested Defendants withdraw their request  
to the Ninth Circuit in light of the representation to this Court. Defendants declined, and have taken  
the position there is no inconsistency.

1 DATED: August 12, 2025

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